

# **WEST VIRGINIA LEGISLATURE**

## **2025 REGULAR SESSION**

**Introduced**

### **House Bill 2743**

By Delegate Coop-Gonzalez

[Introduced February 21, 2025; referred to the  
Committee on Finance]

1 A BILL to amend and reenact §11-15-3 and §11-15-3b of the Code of West Virginia, 1931, as  
2 amended, relating to removing consumers sales and service tax from prepared food sold  
3 through vending and money-operated machines.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 15. CONSUMERS SALES AND SERVICE TAX.**

**§11-15-3. Amount of tax; allocation of tax and transfers.**

1 (a) *Vendor to collect.* — Unless otherwise provided in this article or provided in §11-15A-1  
2 *et seq.* of this code, for the privilege of selling tangible personal property or custom software and  
3 for the privilege of furnishing certain selected services defined in §11-15-2 and §11-15-8 of this  
4 code, the vendor shall collect from the purchaser the tax as provided under this article and §11-  
5 15B-1 *et seq.* of this code, and shall pay the amount of tax to the Tax Commissioner in accordance  
6 with the provisions of this article or §11-15B-1 *et seq.* of this code.

7 (b) *Amount of tax.* — The general consumers sales and service tax imposed by this article  
8 shall be at the rate of six cents on the dollar of sales or services, excluding gasoline and special  
9 fuel sales, which remain taxable at the rate of five cents on the dollar of sales; and excluding  
10 prepared food sold through vending and money-operated machines, which shall not be taxable  
11 after January 1, 2026.

12 (c) *Calculation tax on fractional parts of a dollar until January 1, 2004.* — There shall be no  
13 tax on sales where the monetary consideration is five cents or less. The amount of the tax shall be  
14 computed as follows:

15 (1) On each sale, where the monetary consideration is from six cents to 16 cents, both  
16 inclusive, one cent.

17 (2) On each sale, where the monetary consideration is from 17 cents to 33 cents, both  
18 inclusive, two cents.

19 (3) On each sale, where the monetary consideration is from 34 cents to 50 cents, both  
20 inclusive, three cents.

21 (4) On each sale, where the monetary consideration is from 51 cents to 67 cents, both  
22 inclusive, four cents.

23 (5) On each sale, where the monetary consideration is from 68 cents to 84 cents, both  
24 inclusive, five cents.

25 (6) On each sale, where the monetary consideration is from 85 cents to \$1, both inclusive,  
26 six cents.

27 (7) If the sale price is in excess of \$1, six cents on each whole dollar of sale price, and upon  
28 any fractional part of a dollar in excess of whole dollars as follows: One cent on the fractional part  
29 of the dollar if less than 17 cents; two cents on the fractional part of the dollar if in excess of 16  
30 cents but less than 34 cents; three cents on the fractional part of the dollar if in excess of 33 cents  
31 but less than 51 cents; four cents on the fractional part of the dollar if in excess of 50 cents but less  
32 than 68 cents; five cents on the fractional part of the dollar if in excess of 67 cents but less than 85  
33 cents; and six cents on the fractional part of the dollar if in excess of 84 cents. For example, the tax  
34 on sales from \$1.01 to \$1.16, both inclusive, seven cents; on sales from \$1.17 to \$1.33, both  
35 inclusive, eight cents; on sales from \$1.34 to \$1.50, both inclusive, nine cents; on sales from \$1.51  
36 to \$1.67, both inclusive, 10 cents; on sales from \$1.68 to \$1.84, both inclusive, 11 cents; and on  
37 sales from \$1.85 to \$2, both inclusive, 12 cents: *Provided*, That beginning January 1, 2004, tax  
38 due under this article shall be calculated as provided in this subsection and subsection (d) of this  
39 section does not apply to sales made after December 31, 2003.

40 (d) *Calculation of tax on fractional parts of a dollar after December 31, 2003.* — Beginning  
41 January 1, 2004, the tax computation under subsection (b) of this section shall be carried to the  
42 third decimal place, and the tax rounded up to the next whole cent whenever the third decimal  
43 place is greater than four and rounded down to the lower whole cent whenever the third decimal  
44 place is four or less. The vendor may elect to compute the tax due on a transaction on a per item  
45 basis or on an invoice basis provided the method used is consistently used during the reporting  
46 period.

47           (e) *No aggregation of separate sales transactions, exception for coin-operated devices.* —  
48 Separate sales, such as daily or weekly deliveries, shall not be aggregated for the purpose of  
49 computation of the tax even though the sales are aggregated in the billing or payment therefor.  
50 Notwithstanding any other provision of this article, coin-operated amusement and vending  
51 machine sales shall be aggregated for the purpose of computation of this tax.

52           (f) *Rate of tax on certain mobile homes.* — Notwithstanding any provision of this article to  
53 the contrary, after December 31, 2003, the tax levied on sales of mobile homes to be used by the  
54 owner thereof as his or her principal year-round residence and dwelling shall be an amount equal  
55 to six percent of 50 percent of the sales price.

56           (g) *Construction; custom software.* — After December 31, 2003, whenever the words  
57 "tangible personal property" or "property" appear in this article, the same shall also include the  
58 words "custom software".

59           (h) *Computation of tax on sales of gasoline and special fuel.* — The method of  
60 computation of tax provided in this section does not apply to sales of gasoline and special fuel.

**§11-15-3b. Exceptions to reduced rate of tax on food and food ingredients intended for human consumption.**

1           The reduced rate of tax provided on food and food ingredients intended for human  
2 consumption provided in section three-a of this article shall not apply to sales, purchases and uses  
3 by consumers of "prepared food", as defined in article fifteen-b of this chapter, which shall remain  
4 taxable at the general rate of tax specified in section three of this article and section two, article  
5 fifteen-a of this chapter: *Provided*, That after June 30, 2007, the reduced rate of tax provided in  
6 section three-a of this article shall not apply to sales, purchases and uses by consumers of  
7 "prepared food", ~~"food sold through vending machines"~~ and "soft drinks" as defined in article  
8 fifteen-b of this chapter, which shall be taxed at the general rate of tax specified in section three of  
9 this article and section two, article fifteen-a of this chapter.

NOTE: The purpose of this bill is to remove consumers sales and service tax from prepared food sold through vending and money-operated machines.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.